

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

UNITED STATES OF AMERICA)
)
v.)
 1:09-CR-118
)
ROBERT L. COLE)
)

OPINION AND ORDER

Defendant, Robert L. Cole, a federal prisoner, moved for a reduction of his sentence under the provisions of the First Step Act of 2018. On March 4, 2019, this Court referred the defendant's case to the Federal Community Defenders, Inc. ("FCD") to determine if the defendant qualified for the relief he sought and the FCD filed his appearance on the same date. Now before the Court is a Motion to Withdraw [DE 81] filed on April 11, 2019 by the FCD, wherein counsel indicates that the defendant is ineligible for the requested relief. In his filing, the FCD refers to an Addendum to the Presentence Report filed on April 3, 2019 by the United States Probation Office. The FCD also indicates that he agrees with the ultimate conclusion in the Addendum. For the following reasons, the Motion to Withdraw will be GRANTED.

On May 17, 2010, the defendant was sentenced to 180 months imprisonment after pleading guilty to possession with intent to distribute 5 or more grams of cocaine base "crack," in violation of 21 U.S.C. §841(a)(1) and 60 months on Count 4, carrying a firearm during and in relation to a drug trafficking crime, a violation of 18 U.S.C. §924(c) to run consecutively to Count 3. In its Addendum, the Probation Office determined that the defendant did not qualify for relief under the First Step Act because the mandatory minimum sentences imposed in Counts 3 and 4 remain unchanged .

The Court has reviewed the filings and agrees with the Probation Office's conclusion as well as that of the FCD that the defendant does not qualify for relief under the First Step Act of 2018. Accordingly, the Court GRANTS the Motion to Withdraw [DE 81].

So ordered. This 29th day of April, 2019.

s/ William C. Lee
United States District Court